



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

**DR. RACHEL MONTEBELLO B.A. LL.D.
MAGISTRATE**

Case No.: 189/2022

**THE POLICE
(Inspector Stacy Gatt)
(Inspector Elisia Scicluna)**

-Vs-

GODWIL CHIDI ANYANWU

Today, 3rd October 2024

The Court,

Having seen the charges brought against **GODWIL CHIDI ANYANWU** son of Godwil and Suzanna born in Nigeria on 1/1/1990 and currently residing at 'Ice', Flat 4, Bishop F.S. Caruana Street, Msida and holder of ID card number 74002A, who was charged with having on 8th April 2022 at around 22:50hrs whilst in apartment number 8, Balbi Street, Marsa (Malta) and/or on these Islands:-

1. Caused grievous injuries to the person of Abdul Rahman Mohammed as certified by Dr Mahmoud Hamido (med. no. 4325);

2. And also for having attempted to use force against Abdul Rahman Mohammed and Taha Alzilai Souliman Mohammed, with intent to insult, annoy or hurt such persons or other;
3. And also for having wilfully disturbed the public good order or the public peace;

The Prosecution requests guarantee in favour of Abdul Rahman Mohammed and Taha Alzilai Souliman Mohammed in terms of article 383, 384, and 385.

Article 412C is also being requested in favour of Abdul Rahman Mohammed and Taha Alzilai Souliman Mohammed.

Having heard the charges read out and confirmed on oath by the Prosecuting Officer;;

Having heard the accused during the examination plead not guilty;

Having seen that the Attorney General by means of a note dated 12th January 2024, sent the accused for trial before this Court in respect of the offences under the following articles of law:-

- Article 214, 215, 216(1)(a), 216(1)(b) of Chapter 9 of the Laws of Malta;
- Article 339 (d) of Chapter 9 of the Laws of Malta;
- Article 338(m) of Chapter 9 of the Laws of Malta;

Having heard the defendant declare on the 24th June 2024 that he has no objection to having the case tried summarily and decided by this Court;

Having heard all the witnesses and seen all the evidence;

Have seen all documents and other acts forming part of the record of the inquiry;

Having heard the final oral submissions made by the Prosecution and the defence during the hearing scheduled for that purpose on the 25th of September 2024;

Having seen that the case was adjourned for today for delivery of judgement;

Having considered;

That the defendant is charged with voluntarily inflicting injuries of a grievous nature on Abdul Rahman Mohammed during an affray that occurred on the 8th April 2022, and with offences of a contraventional nature related to the said incident.

It is established from the facts that emerge from the evidence, that an argument arose between Lucy Makate, the accused's sister, and Abdul Rahman Mohammed at an apartment in Marsa which was shared with his partner Taha Alzilai Souliman Mohammed, Edet (Edith) Peace and other persons. The accused, who was informed by his sister that she was being assaulted at her apartment, arrived at the scene shortly afterwards together with, or around the same time as, two other friends, Franke Meudjeu and Hyacinthe Seka. At this point a scuffle ensued, as a result of which, Lucy Makate, Abdul Rahman Mohammed, Frank Meudjeu and Hyacinth Seka, all sustained visible injuries. Abdul Rahman Mohammed was taken to hospital to be treated for his injuries. The accused, Godwil Chidi Anyanwu, does not result to have sustained any injuries.

Hyacinthe Seka testified that he was with Frank at Chidi's shop in Marsa when Chidi's sister called him to tell him that there was Abdul at her apartment acting aggressively, and he had attacked her with a knife. Chidi asked them to go and help him and they accompanied him to the apartment which was only a short distance away. When they arrived, Abdul, who was there with another woman, tried to prevent them from entering the apartment and attacked them with a chair. He also had a knife in his hand and was throwing things down the stairs towards them. Chidi's sister was

locked in her bedroom and was crying to them to help her, while Abdul was trying to break the door open in order to prevent him, Frank and Chidi from helping her. The witness stated that at that point, Abdul attacked them and started to throw things at them. He was hit by the chair and suffered injuries to his hands and chest. Even Frank was injured and everyone was in a panic. One by one they ran downstairs - he went downstairs together with Chidi while his friend, Frank Meudjeu, remained upstairs. Abdul then came running down the stairs after them and also ran after Chidi.

Edet (Edith) Peace testified that the Sudanese man who resided with his partner at the same apartment where she resided with Lucy Makate, began to record Lucy Makate with his phone and when she protested, he hit her with a blow to her face. The witness stated that at that point she called her boyfriend, Hyacinthe Seka, while Lucy called her brother, the accused, for help. She explained that the accused was the first to arrive at the scene and immediately after, Hyacinth and Frank Meudjeu also turned up. The witness explained that when Chidi saw that his sister was being beaten, he tried to approach her but was stopped by the man's girlfriend. Chidi pushed the woman out of the way but she ran to the kitchen and took a knife. At this point, the witness ran into her room and locked the door. When the situation calmed down and she emerged from her room, she found that everyone was outside the apartment but Lucy was locked in her room. She therefore went outside to fetch the accused in order to help Lucy out of her room, but when he tried to go back into the apartment, together with Seka and Frank, the Sudanese man was waiting for them on the stairs with a knife and a plank of wood in his hands and he began to hit out at them. At that point, she ran into her room again and locked the door. Someone tried to break down her door and she began to shout "*call the Police*".

Lucy Makate (also referred to as 'Bessie') testified that when she arrived at the apartment together with Edet Peace, the Sudanese man who lives in the same apartment, began to film her with his phone, holding the phone to her face. She asked him why he was filming her and told him that he must not film her in her house, but he kept on filming her and also Edet. When she grabbed his hand to remove the

camera from her face, he began to beat her and she called her brother, the accused, to come and help her. When the man saw that she had made a phonecall, he asked her whether she had called someone to come and fight, and if so, he will kill them. She was very afraid and shocked as this was not the first time that this person had acted violently in the apartment and he had also tried to beat her on another occasion. When this man saw that her brother had arrived at the apartment, he rushed to the kitchen and brought a knife, which he used to cut her neck. Her brother, who was with Frank Meudjeu and another person, grabbed the man and held him away from her, and it was thanks to him that she was not dead, as she managed to flee into her room and locked the door. She tried to emerge from her room when her brother and the others came to try and rescue her but when she opened the door and saw the Sudanese man holding the knife and a plank in his hand, she locked the door again. He tried to break down her door and heard someone else telling him that he should not do that. She only emerged from her room when the Police arrived at the apartment.

Frank Meudjeu testified that when he was at the accused's shop in Marsa, his girlfriend, Lucy Makate, who is also Chidi's sister, called to say that she was being attacked by Abdul Rahman in the apartment. They both immediately went to the apartment together with Seka, and when they arrived, he saw Abdul Rahman holding a knife while his girlfriend had a plank of wood. The door of Lucy's room was closed when they arrived and he heard her crying so he tried, together with Chidi and Seka, to open the door but he was hit by the woman with the plank, while Abdul Rahman hit Seka with the knife. He then saw Abdul Rahmam leave the apartment and go out on the street, where there were many people gathering.

The accused, Godwil Chidi Anyanwu, chose not to testify during the proceedings but he released a statement during his interrogation by the Police on the 9th April 2022. He stated that while he was at his shop in Marsa, his sister Lucy called him crying and when he asked her over the phone what had happened, she said that Abdul was taking a video of her and when she asked him why he was recording her, he began to beat her. At that time there were two friends of his in his shop, one of whom

was Joy's (Edet Peace) boyfriend, who also told him that there was an incident was taking place at Lucy's apartment. When he arrived at Lucy's apartment he heard a lot of noise and he saw Abdul holding his sister from her neck while holding a piece of wood and also a knife approximately 20cm long. Frank and Seko tried to calm him down and he asked Abdul to stop and explain what happened, but he was just shouting and saying that nobody should come close. There was also Abdul's wife present, a certain Taha Alzali Soulainan.

The accused stated that at that point he went outside to call the Police and left Frank and Seko inside. He denied that before he entered the building, Abdul Rahman Mohammed told him from his bedroom window that the argument was settled and that he could return home. He also denied that he grabbed Taha from her neck and punched her in the face and that he was involved in a fight with Abdul and specifically, he stated that he did not punch Abdul or beat him with a piece of wood or a walking aid, and that these allegations are a lie. He stated that he only argued with Abdul because he was fighting with his sister but he insisted that he did not fight him. He also described as a lie the allegation that he threw chairs at Abdul and denied that Abdul suffered any injuries at all.

Having considered;

The Court observes that the version of events attested to by the witnesses who testified that they were present at some stage or other of the incident in which Abdul Rahman Mohammed was allegedly injured, are broadly compatible. All witnesses testified that Abdul Rahman Mohammed (who is adequately identified as 'the Sudanese man') was acting aggressively, and it is satisfactorily proven that he assaulted those persons, who arrived on site to assist Lucy Makate, as well as Lucy Makate herself. In fact, Hyacinthe Seka, Frank Meudjeu and Lucy Makate, corroborated by Edet Peace, each confirmed that they were assaulted and injured at the hands of Abdul Rahman Mohammed.

Conversely, however, there is no evidence which satisfactorily demonstrates that the accused, Godwil Chidi Anyanwu, caused any injuries to Abdul Rahman Mohammed. The alleged victim, and his partner Taha Azilal Suleiman Mohammed, ultimately never testified before the Court despite the fact that numerous attempts over a span of two years, were carried out to trace them and bring them forward to testify in the inquiry; all to no avail. Of course, the version of events that the alleged victim related to the Police, as would result from the current incident report, cannot be attributed any probatory value in view of the requirements of article 646(1)(2) of the Criminal Code which requires that witnesses are examined *viva voce* before the Court.

In addition, the testimony of PS 193 Abigail Sciberras¹ in so far as she recounted the version of events that was related to her by the alleged victim, Abdul Rahman Mohammed, constitutes evidence only of the fact that he related those facts to her, and not of the truth of those statements. Therefore, the truth of the allegation that a certain ‘Chidy’ assaulted Taha Azilal Soleiman Mohammed and Abdul Rahman Mohammed in their bedroom and later threw chairs at them while they were in the common parts of the apartment and also hit them with a broken drawer, a piece of wood and a walking aid made of steel, is not proven by the testimony alone of PS 193 Abigail Sciberras.

Consequently, there is no evidence or testimony in the record of the inquiry which would substantiate the allegation that it was the accused person who caused the injuries sustained by Abdul Rahman Mohammed, and while no evidence was brought to show that the alleged victim knew the accused personally, he was also never identified by the alleged victim as the aggressor from among the other persons who were present in the apartment. The Court would point out that from a cursory examination of the version reported to the Police by the alleged victim, it would result that the alleged victim does not appear to have mentioned to the Police the presence of the other two men who arrived together with the accused to the apartment to help

¹ 1st June 2022.

Lucy Makate², while on the other hand it is conclusively established from the evidence that Frank Meudjeu and Hyacinthe Seka were indeed present at the scene and were also involved in a scuffle with Abdul Rahman Mohammed and suffered injuries. The accused also maintained in his statement to the Police that he left Frank Medjeu and Hyacinthe Seko with Abdul Rahman Mohammed while he went outside to call the Police. Moreover, Abdul Rahman Mohammed appears to have made no mention of Lucy Makate's injuries, duly attested by Dr. Roderick Bonello³, or any reference to how they might have been caused, although it has been abundantly proved that he did indeed hit her and also cut her neck with the knife which all the witnesses confirmed he wielded during the incident.

The opinion expressed by PS 193 Abigail Sciberras in her testimony that the persons interviewed by her, namely Lucy Makate, Frank and Seka, "*were trying to hide something from us or to protect Chidi*" is inadmissible. Statements of opinion by a witness who is not an expert witness, on matters which he is not competent to express an opinion, are not admissible in evidence and in any event, the determination of the credibility or otherwise of a witness is the exclusive competence of the Court and no other person.

In any event, for completeness's sake, the Court referred to the statements made by the eye witnesses as would result from the current incident report (Dok. AS1⁴) and from the testimony of PS 193 Abigail Sciberras and, contrary to the assertion made by the witness in her testimony, the Court could not identify any contradiction their respective statements regarding the accused's involvement in the altercation, or any remark or observation that one or more witnesses failed to reply to questions concerning the manner in which Abdul Rahman Mohammed sustained his injuries. Moreover, Inspector Stacy Gatt did not testify in the proceedings regarding the statements made to her by the witnesses who she interviewed together with PS 193 Abigail Sciberras and therefore did not corroborate this allegation.

² Frank Meujeu and Hyacinth Seka.

³ Testimony of the 11th January 2023.

⁴ NPS 2/POL/1754/2022.

The Court also compared the sworn testimony of Lucy Makate, Hyacinth Seka, Frank Meudjeu and Edet Peace, to the statements that they made to PS 193 Abigail Sciberras and Inspector Stacy Gatt on the 9th April 2022 - as would result from the relative current incident report - and found no evident inconsistencies: these statements consistently describe Abdul Rahman Mohammed as having attacked one or more of the said witnesses and also as having wielded a knife, with no reference to any injuries sustained by him or, above all, to any interaction between the said alleged victim and the accused.

Above all, it must be pointed out that the accused was at the scene of the incident together with two other persons, Hyacinthe Seka and Frank Meudjeu who, as already pointed out, both sustained injuries as a result of being assaulted by the alleged victim. The accused also stated that when he went outside to call the Police, Frank and Seko remained inside the apartment and the Court does not find that the accused's version in his statement to the Police in this respect was undermined or contradicted by the testimony of the eye witnesses. On the other hand, Hyacinthe Seka testified expressly that Frank remained in the apartment with Abdul Rahman Mohammed while he went downstairs together with the accused.

Moreover, while it is established that the accused was admittedly present at the scene of the incident, argued with Abdul Rahman Mohammed and, according to Lucy Makate's testimony, held her aggressor back in order to stop him from attacking her, the Court could not identify any evidence or testimony that would demonstrate that the accused attacked Abdul Rahman Mohammed or any other person, or wielded or carried any object during the incident. It is also duly established from the body of evidence that the accused did not suffer any injuries during the incident. On the other hand, it is proved that Frank Meudjeu, Lucy Makate and Hyacinth Seka who were also present, were all assaulted by Abdul Rahman Mohammed who they claimed was wielding a knife and a wooden plank and was also throwing chairs and other objects, and they all sustained injuries as a result of this violent aggression.

In the Court's view, in the absence of the direct testimony of the alleged victim himself, it is difficult to accept that the accused, who suffered no injuries whatsoever should be identified as the person who caused grievous injuries to the said alleged victim, an armed assailant who wielded a knife and caused injuries to three other persons. More so that the accused should be identified as such, to the exclusion of those other injured persons. On the other hand, it is reasonable to assume that one would normally sustain lacerations and or injuries during a physical altercation, so the Prosecution's argument that it was the accused - who sustained no injuries when confronted with an armed and violent assailant - who inflicted allegedly grievous injuries to this armed assailant, although possible, cannot be considered as likely. The Court considers that the Prosecution failed to prove that it was the accused and that it could not reasonably have been one or more of the other persons who sustained injuries during a scuffle with the alleged victim, who caused injuries to Abdul Rahman Mohammed. As already pointed out, the accused's statement that at one stage Frank Meudjeu and Seko Hyacinthe were in the apartment with the alleged victim while he went to call the Police, was not disproved or even contradicted in any manner and all these considerations combined give rise, in the Court's view, to a perception of a reasonable doubt as to the accused's guilt in respect of the first charge.

Moreover, after having reviewed all the evidence, the Court cannot identify sufficient evidence to support the Prosecution's assertion that the accused caused Abdul Rahman Mohammed any injuries, let alone grievous injuries. Moreover, although Dr. Mahmoud Hamdi testified that he examined "*Adid Rahma*" on the 8th April 2022 and issued the certificate exhibited in the record of the inquiry (Dok. SG3), it is pertinent to note that the said certificate was issued in the name of Abdel Ramah (1090332F), not Abdul Rahman Mohammed with Police number 19I-046.

The accused must therefore be acquitted on first charge.

Having considered;

With regard to the second charge, the Attorney General indicated the contravention mentioned in articles 339(d) of the Criminal Code. The accused is charged with having attempted to use force against Abdul Rahman Mohammed and Taha Alzalai Souliman Mohammed with intent to insult, annoy or hurt such persons or others.

From the facts that have already been laid out as part of the considerations regarding the first charge, it does not result that the accused attempted to use force against Abdul Rahman Mohammed or against Taha Alzalai Souliman Mohammed. The said persons never testified before the Court to affirm that the accused attempted to assault them and even if the evidence shows that an argument did take place between the accused and the alleged victims, there is no evidence that he attempted to use force against them. In any event, any force that he might have used when he held them or pushed them back, was evidently used not to annoy, insult or hurt them but in order to prevent them from continuing to assault his sister, Lucy Makata, and to defend her. Therefore, the formal element of this contravention, that is the intent to insult, annoy or hurt such persons is also lacking.

Having considered;

That the accused is also charged with having wilfully disturbed the public good order or the public peace.

The Attorney General, however, instead of citing the article of law that envisages the actions imputed to the accused in the third charge, that is, article 338(dd) of the Criminal Code, cited article 338(m) of the Criminal Code which envisages the contravention committed by whosoever, at night time, disturbs the repose of the inhabitants by rowdiness or bawling, or in any other manner. The third charge reflects the wording of article 338(dd) of the Criminal Code however, since this was not cited by the Attorney General as one of the provisions of law in terms of which the accused

was to be tried, the Court cannot find him guilty of the offence under article 338(d) of the Criminal Code.

In so far as article 338(m) of the Criminal Code is concerned, it is settled case-law that in order to establish a conviction for this offence, a nuisance or substantive inconvenience and material discomfort must be shown to have been caused to one or more persons which effectively disturbed them while resting. However, in the case at hand, none of the witnesses who testified, lamented that they were disturbed by rowdiness or bawling. The essential material element of the offence, that is the inconvenience, is therefore completely lacking and consequently, the accused cannot be found guilty of the offence under article 338(m) of the Criminal Code or of the offence imputed in the third charge.

For these reasons the Court does not find the accused, GODWIL CHIDI ANYANWU, guilty of any of the charges brought against him or in terms of the articles of law mentioned in the Attorney General's note of the 24th June 2024, and orders his acquittal.

**DR. RACHEL MONTEBELLO
MAGISTRATE.**